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23 January 1994

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FEB 06 1995

Letters To The Editor  
The Arco Advertiser  
P.O. Box 803  
Arco, ID 83213

Dear Editor,

As a former resident of Butte County I have continued my subscription to The Arco Advertiser. I have followed with interest the battle for the survival of the Big Lost River. I have followed the articles by Charles Traugher in your paper, and his recent article in The Idaho Statesman in Boise. He appears to be knowledgeable of the situation, but fighting a lone battle against entrenched interests. I have also watched the formation and organization of the Arco Chamber Of Commerce Water committee. Although well intentioned, their efforts will accomplish little because they and the entire City Counsel, including the Mayor, have been intimidated by the powerful and wealthy landowners upstream.

I think the problem has been permitted to grow over the past 75 to 100 years due to "water rights creep", "brother-in-law" rule making, and the greed of upstream land owners. I think an investigation by an outside water rights expert will establish the necessity of rolling back all water rights to about the year 1900, and start over. The Big Lost River was there first and should have the first water right. I don't think any water right should be honored if it interferes with a free flowing river.

As to the down river stream-side land owners and the city of Arco. You have been financially damaged due to the negligence, and possible outright water theft, of upstream irrigators. I believe a "Class Action" Tort claim would receive favorable consideration by a judge sitting well outside Butte County.

The battle of the Big Lost River should be of special interest to the young people of the valley and all of Butte County. This is your future at stake. Get involved. Ask questions. Seek out the truth and demand justice. Without some relief the city of Arco and surrounding community will die.

Yours Truly,

*William A. Kime*  
WILLIAM A. KIME  
MOUNTAIN HOME, ID

JANUARY 29, 1995  
LETTER TO THE EDITOR

The blatant disrespect for the Natural Stream Channels of Lower Big Lost River by U.S.D.A., I.D.W.R. and B.L.R.I.D. must stop immediately. Our Natural Channels are plugged with debris, garbage and blockages by some negligent farm operations.

In order to avoid the disastrous waste of our water resources we must act now!

1. IMMEDIATELY ENFORCE THE CLEANING AND RESTORATION OF SPRING CREEK, AND LOWER BIG LOST RIVER DRAINAGES.

2. THE PROPER CONTROL VALVES MUST BE INSTALLED SO ALL NATURAL WATER FLOWS OF SPRING CREEK CAN FLOW WITHOUT BEING IMPEDED. A FLUME SHOULD BE INSTALLED IMMEDIATELY, OR THE EAST SIDE CANAL SHOULD BE SHUT DOWN AND PLOWED OVER. THE PERPETRATORS WHO DESTROYED THE NATURAL FLOWS OF SPRING CREEK SHOULD BE HELD ACCOUNTABLE. ONLY IN LOWER BIG LOST RIVER CAN ONE FIND SUCH IRRESPONSIBLE ACTS, SUCH AS TRYING TO FEED A NATURAL STREAM CHANNEL USING THE CONTROLS OF A MAN MADE DITCH. ALSO, ALL INFERIOR CULVERTS MUST BE REMOVED.

3. IF THE SNOW PACK SHOWS THAT OUR DRAINAGE SYSTEM WILL RECEIVE AMPLE WATER THIS YEAR, TO AVOID THE DISASTER OF 1993 WE MUST START THE REPAIRS OF OUR SYSTEM IMMEDIATELY SO THAT WE CAN START FILLING OUR AQUIFER, AND BE PREPARED IF FLOOD PROBLEMS ARISE.

The American Dream in the Big Lost River Valley is being destroyed by the **arrogant disrespect** of our rights by our own State Government and its bureaucracies to the extent that **bankruptcy** is eminent for some in this valley that can hardly afford to feed their children let alone stand up to the **heavy hand of our state government**.

Although we are in District 31, which includes the pro tem of our senate and the speaker of the house in the State of Idaho, both from Bingham county, plus one other Representative, all from Blackfoot, in Bingham county, we evidentially are the expendable orphans from Butte County with no elected officials from Butte County to represent us. Our cries for help have been totally ignored!

In a effort to protect and restore our river, its channels, and environment, the **"FRIENDS OF BIG LOST RIVER"** have opened a bank account at the First Security Bank in Arco.

Anyone that would like to help this **great valley be returned** to the **status of I LIVE IN GOD'S COUNTRY--THE BIG LOST RIVER VALLEY!**, can, if they wish send a contribution to the "FRIENDS OF BIG LOST RIVER VALLEY" in care of the First Security Bank at 205 West Grand, Arco Idaho, 83213 or any First Security Bank in Idaho, and remain anonymous. If you would like to be put on our list of supporters send your contribution c/o P.O. Box 32, Arco, Idaho.

If the people recognize the need and support us, all funds will be used to pursue the protection of the Constitutional Water Rights of the valley residents and the immediate restoration of the Big Lost River anywhere in the system that needs attention.

**FRIENDS OF BIG LOST RIVER**

NAMES OF PARTICIPATING MEMBERS AND FRIENDS OF LOST RIVER ARE ON FILE, FOR  
INFORMATION CALL (208-527-3920)

C.C. GOV. PHIL BATT A.G. ALLANCE U.S. SEN. CRAIG U.S. REP. CRAPO I.D.W.R. S.R.B.A.  
B.L.R.I.D. WATERMASTER ROSENKRANCE U.S. ARMY ENG. 103 ACTIVE LEGISLATORS

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**LEGISLATORS QUESTIONNAIRE**

DECEMBER 26, 1994

**HONORABLE LEGISLATORS**

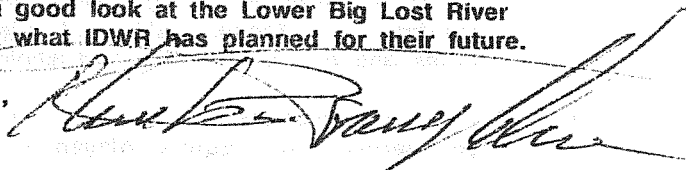
**IDAHO SENATOR JERRY TWIGGS, AND SENATORS**

**IDAHO REPRESENTATIVE MIKE SIMPSON, AND REPRESENTATIVES**

1. Does your city in Idaho look more like a GHETTO than main stream America?
2. Has your natural stream channel that furnishes water to your land been plowed and planted by an out of state multi-million dollar corporation to grow subsidized crops, that was authorized or received permission from the S.C.S. arm of the U.S.D.A., and consequently condoned by the U.S. Army Engineers?
3. Have you received an abandonment notice of your water right under the guise of non use, that IDWR is going to abscond with your water right although the fish haven't had a drink for the past 7 years and a large corporate land owner was allowed to plow and plant the natural stream channel that furnishes water to your property to grow subsidizes crops? All of the above happened before IDWR issued their abandonment notice.
4. Has IDWR, completely shut off your river, diverting all natural flows into man made canals, and then to add insult to injury issued permits to landowners to drill wells below the shut off and transport your ground water along with the natural flows to desert lands outside of your natural drainage system to lands without water rights? To add more insult to injury when senior water rights holders call for their water, IDWR invokes their famous futile call rule that has turned Lower Lost River, including all farms and the city of Arco that adjoins our natural stream channel into a wasteland.
5. Has your American Dream been destroyed by IDWR and the State of Idaho, although you served your country, played by the rules, and raised an outstanding family?
6. Are you one of the Legislators who joined up with our past 2 governors and attorney general in their futile attempt to circumvent our Constitutional water rights?
7. Are you one of the Legislators who has ignored our cries for help and yet professes that it is in our best interest to circumvent our constitution for the benefit of a few no matter who it destroys?
8. Just when are our Legislators and officials going to admit that the inability or failure to adjudicate the state's water rights is nothing more than the failure of IDWR with their blank check mentality and the State of Idaho to enforce their own laws? The blatant disregard of our constitutional water laws along with no common sense or integrity over the last 20 years by IDWR, has caused such a fiasco it threatens to destroy our beautiful state. Its already destroyed Lower Big Lost River and its environment.
9. Are you being bankrupted by failure of your own state to enforce constitutional water laws?
10. Do federal crop subsidizes in your county continually outstrip the total property tax revenue year after year? It did, in excess of \$456,000 in Butte county in 1993.
11. The only protection for those of us that don't have the political clout or money is the constitution, which the Honorable Judge Hurlbutt is trying to enforce, and yet every time our courts try to enforce our constitutional rights our very own lawmakers cry foul, and try to find a way to circumvent the judge and our constitution.

12. Have you ever been attacked by your own state, and after having spent thousands of dollars and thousands of hours of your own time getting yourself exonerated, even to the extent of getting the law changed, the bureaucrats were so heartless that they failed to even tell you that you were successful? If you think this is another one of my "frivolous" accusations just check out House Bill # 631 that was passed in 1992 or better yet just ask Rep. Golden Linford, JoAn Wood, or Senator Rex Furness.
13. Have you ever been told to SHUT UP at a state sponsored meeting by an IDWR BUREAUCRAT, who also stated in one of his letters to me. . . "The department of Water Resources will provide any information or assistance we have in the future without the need for either the tone or distribution of your recent letter". . . I wonder what the governor thought about his copy?
14. Have you ever visited our district court in Twin Falls and watched the PATHETIC PERFORMANCE OF OUR BRAIN TRUSTS FROM THE ATTORNEY GENERALS OFFICE AS WELL AS THE LAWYERS REPRESENTING THE SPECIAL INTEREST GROUPS in their effort to continue unconstitutional laws that will do nothing but continue business as usual with Idaho's water no matter who or what it DESTROYS?
15. Do you have the integrity to call for a congressional hearing in order to find out the facts, before you plunge into another attempt to change the laws to fit the crime?, or is the TRUTH too much to ask for?
16. The adjudication must go on, but it must meet constitutional scrutiny and must protect all Idaho citizens, not just the chosen few that care only about their pocket book and nothing about the future of Idaho and its children. Without REFORM OR CIRCUIT BREAKERS, that will keep our water resources in SOLVENCY the citizens of Idaho will have to go no further than Arco, Id. and take a good look at the Lower Big Lost River and Spring Creek Drainage system to see just what IDWR has planned for their future.

SINCERELY,



CHARLES P. TRAUGHER P.O. BOX 678 ARCO, IDAHO 83213-0678 (208-527-3920)

C.C. GOVERNOR PHIL BATT  
 S.R.B.A. DANIEL C HURLBUTT JR.  
 U.S. SENATOR LARRY CRAIG  
 U.S. REP. MIKE CRAPO  
 ID. ATTORNEY GENERAL AL LANCE  
 ID. SENATOR REX FURNESS  
 ID. REP. GOLDEN C. LINFORD  
 ID. REP. ALLAN LARSEN  
 ID. REP. JOAN WOOD  
 BUTTE COUNTY COMMISSIONERS  
 CITY OF ARCO  
 WILLIAM R. HOLLIFIELD, P.A.  
 IDAHO FISH AND GAME DEPT. MARK GAMBLIN  
 BUREAU OF DISASTER SERVICES MIKE SWEENEY 1069 FRONTIER RD. TWIN FALLS, ID. 83301-3371  
 D.E.Q. STEVE K. ROBINSON 900 NORTH SKYLINE IDAHO FALLS, ID. 83402-1718  
 ARCO ADVERTISER DON CAMMACK EDITOR  
 THE MORNING NEWS P.O. BOX 70 BLACKFOOT, ID. 83221  
 THE POST REGISTER P.O. BOX 1800 IDAHO FALLS, ID. 83403  
 THE TIMES NEWS P.O. BOX 548 TWIN FALLS, ID. 83303  
 THE IDAHO STATESMAN P.O. BOX 40 BOISE, ID. 83707  
 I.R.U P.O. BOX 633 BOISE, IDAHO 83701

## LETTER TO THE EDITOR

DECEMBER 12, 1994

### LOST WATER?

Dear Editor:

Now that the courts have declared **UNCONSTITUTIONAL**, the blatant attempt by our Legislators to circumvent or manipulate the powers of the Idaho Supreme Court in their ruling that "FIRST IN TIME-FIRST IN RIGHT" was the Constitutional Law of the the land, as well as the courts prior ruling that water laws "42-1416 & 42-1416A" were unconstitutional, one must wonder what the "LEADERSHIP BY EXAMPLE BUNCH", which covers both sides of the political spectrum will come up with next. I suspect it will be the attempt by these same Legislators to saddle all the citizens of the State of Idaho to pay for the failed policies of IDWR in their blatant disregard of the Constitutional Water Laws of The State of Idaho, that as I understand has cost \$30 Million already with no end in sight. Why should the general public of Idaho, who are not allowed to have any input whatsoever into the uses of Idaho water have to pay for the adjudication of water users?

This "LEADERSHIP BY EXAMPLE BUNCH", that won't even answer their Constituents cries for help have a lot to learn. **THE DEGRADATION OF LOWER BIG LOST RIVER AND ITS NATURAL STREAM CHANNELS IS NOT ACCEPTABLE!**

IDWR has absconded with my water right as well as others under the guise of abandonment or non-use, although I had paid for mine faithfully for 18 years. If they knew so much about what was going on, just why didn't they also tell me that the S.C.S. arm of the USDA had given the green light to an out of state fully subsidized multi-million dollar corporation to plow and plant Spring Creek, which is a Perennial Stream Channel that delivered water to my property. This atrocity was committed before IDWR issued their notice of cancellation of my water right. IDWR and their plunderous acts had already condemned my property to a wasteland by transferring almost all natural water flows below the Moore Diversion to the old **CAREY ACT PROJECT**.

This is the third time that the courts have declared these actions **ILLEGAL, ACCORDING TO THE CONSTITUTION OF THE STATE OF IDAHO.**

If these actions were legal, please explain to me just why these legislators had to install a law known as the **AMNESTY STATUTES**. It would appear they were to protect **IDWR** and those that were operating **ILLEGALLY**, but were given permission by our very own **IDWR** to operated **ILLEGALLY**, even if it meant turning **LOWER BIG LOST RIVER INTO A WASTELAND!**

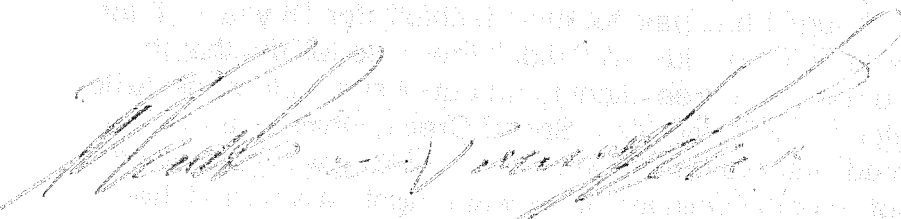
This disaster parallels the disaster of the 1930's, when the local residents of the valley

had to resort to dynamite to put a stop to the demise of the lower big lost river valley. This tragedy is so disastrous for those that have been injured it rates right along with the "WATER-GATE" & "WHITE-WATER" disasters and as such I have dubbed it LOST-WATER!

Since our ex-governor was one of the "BUNCH" who, ignored our cries for help, I would like him to know that when he retires with his SHOTGUN & FLYPOLE he may as well not come to Arco, as it was his administration that DESIGNED the DEMISE OF LOWER BIG LOST RIVER AND THE CITY OF ARCO! We have lost our cottonwood and willow trees, ducks, geese, song birds, fish, deer, other animals, land values, as well as the entire LOWER BIG LOST RIVER that used to be one of the most beautiful BLUE RIBBON TROUT STREAMS IN AMERICA.

The big lost river valley is not a direct part of the snake river plain and as such we have very different problems, that must be addressed separately. The frivolous slogans of IDWR, that IDWR gets installed by our lawmakers as unconstitutional laws, such as "FUTILE CALL, MITIGATION, PRESUMPTIVE STATUES" and others are nothing more than a blatant disregard for common sense and Integrity, for the citizens of lower big lost river valley.

If the citizens of Idaho would like to know what the snake river valley and its adjoining lands are going to look like in the future, without reform or circuit breakers, that will keep our water resources in SOLVENCY, they need go no farther than Arco and take a good look at big lost river & spring creek drainage system.



CHARLES P. TRAUGHER P.O. BOX 678 ARCO, IDAHO 83213-0678 208-527-3920

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**L a w r e n c e   R .   B a b c o c k**

January 8, 1995

Office of the Governor

Philip E. Batt

State Capitol

Boise, Idaho 83720

RE: Snake River Basin Adjudication

Dear Governor Batt:

Having been heavily involved in water rights, both my own and many others in the Big Lost River drainage since 1986, I must write to you in regards to the present stage of the S.R.B.A.

It has been stated in the past that all of the water problems evident in the Snake River Basin are contained in the Big Lost River (Basin 34), hence we were elevated to first place in the adjudication process as the first of three "test basins". I believe we were put in this position for two reasons: one, to be the forced recipient of the Director's "foreign" ideas on Idaho water law; and two, because the Director thought we were too small and poor to resist the heavy hand of the state. Without going into a long trail of detail, I will just cover a few points.

In order to hopefully expedite and simplify the process, I.D.W.R. pushed through the legislature what were commonly called the presumption statutes (42-1416 and 42-1416A) which I.D.W.R. then interpreted on both sides of the spectrum. The Big Lost River Water Users Association, of which I am chairman, filed approximately 70 objections to water claims in Basin 34 that were recommended for approval by the Director even after Cease and Desist orders had been issued on a number of them and most if not all of those 70 claims had been expanded beyond the limits of imagination. Also, many of us filed objections to our own claims as recommended by the Director because the Director, directly or indirectly, tried to alter or confiscate valid decreed water rights that had a history of use within the provisions of the decree.

The Director claimed 42-1416 and 42-1416A as the legal basis for these changes thereby forcing us to challenge the constitutionality of these statutes. Judge Hurlbutt, using in part I.D.W.R.'s own erratic interpretation of these statutes, agreed with us that they were unconstitutional.

The Legislature then, in 1994, tried to put the water user in the S.R.B.A. in the very precarious position of underdog as compared with I.D.W.R. in setting up the Director as an untouchable tyrant and superimposing the executive duties into the judicial system. Again, we

had no choice. Again, Judge Hurlbutt agreed.

The primary concern then becomes: Why all this litigation and expense with no apparent progress in the S.R.B.A?

I believe the S.R.B.A. was first started for a good reason - that is to inventory the valid water rights in the basin. The first hint of a snag came when the Director made the comment that "now, off the record, if it was up to me, I would put all the water rights in this valley on the table and divide them up equally". In practice, this is what was tried. In short, the reason for most of the litigation up to this point is that *I.D.W.R. tried to rewrite Idaho water law* to try to validate many invalid water claims.

We then were forced to court to both protect our valid previously adjudicated water rights and to file objection to the invalid claims that were recommended for approval by the Director. In the process, we have spent tens of thousands of dollars in legal fees forced on us by the nefarious activities of I.D.W.R. and staff, both directly and through the Legislature.

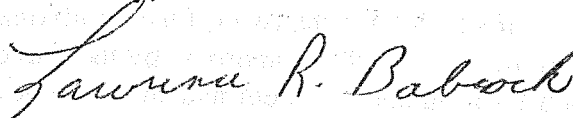
Now just a comment or two on Judge Hurlbutt's decision on Basin Wide Issue #3. It is a *masterpiece*. I can see again why the Idaho Supreme Court appointed Judge Hurlbutt for this important undertaking. He is brilliant, and equally as important, he has the welfare of the individual and private property rights as first priority. If you have not carefully analyzed his decision, I urge you to do so. Being a party to many of the examples he discusses in the decision, I guarantee you that he is correct in his analysis.

I believe the S.R.B.A. can continue if a man with the integrity of Dr. Charles Brockway is appointed as Director, if the I.D.W.R. retires from their position as an adversarial party against Idaho water users, and if the legislature will refrain from further interference.

The S.R.B.A. has been, up to this point, a very frustrating and extremely expensive experience for the water users in the test basins and it is only fair that much of this expense be returned to those who have been forced to take a stand against the heavy hand of the state in the protection of water rights.

If you think it is appropriate, I would be happy to discuss this in more detail at any time. Thank you for your time.

Sincerely,



Lawrence R. Babcock

cc: Judge Daniel C. Hurlbutt, Jr.